

RNTPC Paper No. A/YL-KTN/600
For Consideration by
the Rural and New Town
Planning Committee
on 1.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/600

<u>Applicant</u>	: Mr. TANG Chi Tim represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 225 RP (Part) and 226 (Part) in D.D. 109, Kam Tin, Yuen Long
<u>Site Area</u>	: About 3,420.1 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	: Temporary Public Vehicle Park (Excluding Container Vehicle) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary public vehicle park (excluding container vehicle) for a period of 5 years. According to the Notes of the OZP, ‘public vehicle park (excluding container vehicle)’ use is a Column 2 use under the “V” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for parking of vehicles. The south-eastern part of the Site (about 47% of the Site) is under planning permission (Application no. A/YL-KTN/485) for the same applied use while the north-western portion (about 53% of the Site) is not subject to any previous application (**Plans A-2, A-4a and A-4b**).
- 1.2 Part of the Site was the subject of five previous applications (No. A/YL-KTN/293, 335, 348, 439 and 485) for the same applied use as the current application. All the applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 18.4.2008, 20.11.2009, 12.11.2010, 4.4.2014 and 16.11.2015 respectively for 1 to 5 years. The last Application No. A/YL-KTN/485 submitted by a different applicant was approved

with conditions for a period of 5 years and the planning permission is valid till 16.11.2020.

- 1.3 According to the applicant, the applied use involves a total of 94 car parking spaces for parking of private cars and a guard house with building height of 2.8m (1-storey) and floor area of about 7.44m² with provided within the Site. The Site is accessible via a local track to Kam Tin Road. The development will be operated 24 hours daily. The site layout plan and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 As compare to the previous approval application (No. A/YL-KTN/485), the current application is submitted by different applicant with a larger site area and more parking spaces and same applied use.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary statement and **(Appendix I)** plans received on 3.4.2018
 - (b) Further Information (FI) received on 30.4.2018 **(Appendix Ia)** clarifying width of ingress/egress and trip generation to the Site in response to departmental comments
(accepted and exempted from publication and recounting requirements)
 - (c) FI received on 7.5.2018 and 14.5.2018 providing further **(Appendix Ib)** justification to support the application in response to departmental comments
(accepted and exempted from publication and recounting requirements)
 - (d) FI received on 24.5.2018 providing the operation details **(Appendix Ic)** of the car park use
(accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement and FIs in **Appendices I to Ic**. They can be summarized as follows:

- (a) According to the Notes of the OZP, 'public vehicle park (excluding container vehicle)' use is a Column 2 use. The applied use will not jeopardised the long-term planning intention of the "V" zone. The Site is paved and compatible with the surrounding environment.

- (b) The applicant intends to provide sufficient car parking spaces for nearby residents in order to serve the local needs and legalize the illegal parking along Kam Tin Road.
- (c) Part of the Site is subject to planning permission (No. A/YL-KTN/485) for public carpark use. The applicant of application No. A/YL-KTN/485 and the applicant of the current application are relatives. The applicant of the current application has taken over the public vehicle park business from his relative and intended to provide more car parking spaces. Once the planning approval has been obtained, the approved scheme under application no. A/YL-KTN/485 will no longer be used.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting notice on the Site and sending notice to Kam Tin Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The south-eastern part of the Site is covered by a valid planning approval (Application No. A/YL-KTN/485), it is not subject to any active enforcement case. However, the north-western part of the Site is not covered by any valid planning approval. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

5. Previous Applications

- 5.1 South-eastern part of the Site is the subject of five previous applications (No. A/YL-KTN/293, 335, 348, 439 and 485) submitted by different applicant as the current application for the same applied use. Details of these applications and their locations are shown in **Plan A-1b** and **Appendix II**.
- 5.2 All five applications (No. A/YL-KTN/293, 335, 348, 439 and 485) were approved with conditions by the Committee on 18.4.2008, 20.11.2009, 12.11.2010, 4.4.2014 and 16.11.2015 respectively for 1 to 5 years mainly for the reasons that the development would not frustrate the long-term planning intention of the “V” zone; the development was not incompatible with the surrounding land uses; there was no adverse comment from the relevant departments and no local objection was received; and the concern of the Environmental Protection Department could be addressed by appropriate approval conditions.

- 5.3 For Application No. A/YL-KTN/335, strong local objections on road safety, traffic and environmental grounds were received. Hence, a shorter approval period of 1 year (instead of 5 years sought) was granted to monitor the situation on the site. A shorter approval period of 3 years (instead of 5 years sought) was also granted for Applications No. A/YL-KTN/293, 348 and 439 to monitor the situation on the site. However, Applications No. A/YL-KTN/293 and 439 were revoked on 18.10.2008 and 4.7.2014 respectively due to non-compliance with approval conditions related to landscape and drainage aspects and the provision of measures to mitigate possible noise and artificial lighting nuisance (No. A/YL-KTN/293); and submission of drainage records (No. A/YL-KTN/439). The last planning application No. A/YL-KTN/485 submitted by a different applicant for the same applied use was approved with conditions for 5 years until 6.11.2020 and all the approval conditions have been complied with.
- 5.4 As compare to the previous approved application (Np. A/YL-KTN/485), the current application is submitted by a different applicant with a larger site area and more parking spaces.

6. Similar Applications

- 6.1 There are two similar applications (No. A/YL-KTN/96 and 426) for public vehicle park uses within the same “V” zone of the OZP. Details of the applications are summarized in **Appendix III** whilst their locations are shown in **Plan A-1**.
- 6.2 Both Applications No. A/YL-KTN/96 and 426 were approved with conditions for a period of 3 years by the Committee on 10.9.1999 and 17.1.2014 respectively for similar reasons that the developments could satisfy some of the parking demand from the local villagers; there was no adverse comment from the relevant departments and no local objection to the application; and the proposed use was not expected to generate significant adverse traffic and environmental impacts.

7. The Site and Its Surrounding Areas (Plans A-1a to A-4b)

- 7.1 The Site is :
- (a) paved and currently used for parking of vehicles. The south-eastern part of the Site is planning permission (No. A/YL-KTN/485) for a public vehicular park while the north-western part of the Site is not subject to any previous application;
 - (b) located at the northern side of Kam Tin Road at Tai Hong Wai; and
 - (c) accessible from Kam Tin Road via a local road.

- 7.2 The surrounding areas are mainly occupied by village settlements, a residential estate (Thai Hong Fa Yuen), residential dwellings/structures, shops, parking of vehicles, storage yards and fallow/active agricultural land. A local commercial centre is located at its east across a local track. The parking lots and open storage/storage yard are suspected unauthorized developments subject to enforcement action by the Planning Authority;
- (a) to its north and east are residential dwellings/structures and village houses including Tai Hong Wai and Tai Hong Fa Yuen and parking of vehicles, and to the further north is fallow/cultivated agricultural land;
 - (b) to its south are residential dwellings/structures, some with commercial uses at the ground floor. To its further south across Kam Tin Road are also residential dwellings/structures, playgrounds, unused land and car park; and
 - (c) to its west are some unused land, shop and services uses under approved planning application Nos. A/YL-KTN/547 and 572, storage yards and vacant land.

8. Planning Intention

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that

no structures are allowed to be erected without the prior approval of the Government.

- (b) Lot No. 225 RP (Portion) in D.D. 109 is covered by a Short Term Waiver (STW) No. 3835 to permit structures erected thereon for the purpose of “Temporary Public Vehicle Park (excluding Container Vehicle)”.
- (c) The Site is accessible to Kam Tin Road via Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions to regularize any irregularities (if any) on site. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fees, as may be imposed by the LandsD.
- (f) There is no Small House application approved or under processing within the Site.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be incorporated.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and

maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

- (a) HyD does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was a substantiated complaint on water pollution aspects in 2017.
- (b) The applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Nature Conservation

9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site is located in “V” zone and is paved. As such, he has no objection to the application from nature conservation point of view.
- (b) Nevertheless, there are some trees adjoining the western part of the Site. Should the application be approved, the applicant is advised to avoid damaging these trees.

Landscape

9.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

Should the application be approved, approval condition on the maintenance of existing trees and landscape plantings is recommended.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the development from the drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and implementation of the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Town Planning Board should be included.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) :

- (a) If the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any use under the application.
- (b) Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO. The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (c) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (d) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

District Officer's Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) :

His office has not received any comment from the locals on the application upon close of consultation.

9.2 The following Government departments have no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);

- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager/West, Civil Engineering and Development Department (PM(W), CEDD); and
- (d) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

- 10.1 On 10.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.5.2018, two comments from representative of Tai Hong Wai Indigenous Villagers and a general public were received (**Appendices IV-1 and IV-2**).
- 10.2 Both commenters object the application mainly on the grounds that the car park under operation has already induced adverse impacts on the villagers on safety, traffic, drainage, environment and health aspects, and approval of the application will worsen the situation; the Site is zoned for residential use; parking will cause the leaching of oils and other toxins into the soil and is therefore incompatible with the planning intention; parking facilities should be accommodated in high rise building, underground, in stacked facilities or ground floor of village house; and approval on the application, even on a temporary basis, encourages inefficient land use.

11. Planning Considerations and Assessments

- 11.1 This application is for temporary public vehicle park (excluding container vehicles) for a period of 5 years. The applied use is not entirely in line with the planning intention of the “V” zone which is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. Nevertheless, DLO/YL of LandsD advised that no Small House application has been approved or under processing at the Site and he has no adverse comment on the application. Also, according to the applicant, the public vehicle park can satisfy some of the local parking demand. It is considered that temporary planning permission for the development would not frustrate the long-term planning intention of the “V” zone on the OZP.
- 11.2 The surrounding areas are characterized by residential dwellings/structures, storage yards, shops, parking of vehicles and fallow/cultivated agricultural land. Part of the Site is the subject of five previous approvals (Applications No. A/YL-KTN/293, 335, 348, 439 and 485) for the same use since 2008 (**Plan A-1b** and paragraph 5 refer). Planning permission of Application No. A/YL-KTN/485 covered the south-eastern part of the Site is valid until 6.11.2020. Compared with the last previous approved application, the current application is for the same applied use with a larger site area and more parking spaces. Similar applications (No. A/YL-KTN/96 and 426) for public vehicle park use to the east of the Site

within the same “V” zone (**Plan A-1a** and paragraph 6.2 refer) have also been approved. Therefore, approval of the application is generally in line with the Committee’s previous decision.

- 11.3 Relevant departments consulted including DEP, CE/MN of DSD, D of FS and C for T have no adverse comment on the application. To minimise any potential nuisance, approval conditions restricting vehicle type and prohibiting workshop activities are recommended in paragraph 12.2 (a) to (d) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by imposition of appropriate approval conditions in paragraph 12.2(e) to (j) below.
- 11.4 Two objecting comments were received during the statutory public inspection period as set out in paragraph 10 above. In this regard, temporary approval would not frustrate the long-term planning intention. Also, relevant departments consulted have no objection to the application. The planning assessments and considerations as stated above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the temporary public vehicle park (excluding container vehicle) could be tolerated for a period of 5 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 5 years until 1.6.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;

- (c) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (d) a notice should be posted at a prominent location of the Site to indicate that no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site at all times during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing trees and landscape plantings on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.12.2018;
- (h) in relation to (g) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 1.3.2019;
- (i) the submission of fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.12.2018;
- (j) in relation to (i) above, the provision of fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.3.2019;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning conditions (g), (h), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (m) upon expiry of the planning permission, the reinstatement of the application Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The advisory clauses are in **Appendix V**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form with plans received on 3.4.2018
Appendix Ia	FI received on 30.4.2018
Appendix Ib	FI received on 7.5.2018 and 14.5.2018
Appendix Ic	FI received on 24.5.2018
Appendix II	Previous s.16 applications covering the application site
Appendix III	Similar applications in the same "V" zone on Kam Tin North OZP
Appendices IV-1 and IV-2	Public comments received during the statutory publication period

Appendix V	Advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1a	Location Plan with similar applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**